

LAW OFFICE OF  
DAVID J. WEINSOFF  
138 Ridgeway Avenue  
Fairfax, California 94930  
tel. 415•460•9760 fax. 415•460•9762  
david@weinsofflaw.com

***Via Certified Mailing – Return Receipt Requested***

April 28, 2014

Don Floriani, Chief Operating Officer,  
General Manager, Agent for Service of Process  
Santa Rosa Golf & Country Club  
333 Country Club Drive  
Santa Rosa, CA 95401

**Re: Notice of Violations and Intent to File Suit under the Safe Drinking Water Act**

Dear Mr. Floriani:

**NOTICE**

This Notice is provided on behalf of California River Watch (“River Watch”) in regard to violations of the Safe Drinking Water Act (“SDWA” or the “Act”), 42 U.S.C. §§300f to 300j-26, that River Watch believes are occurring at Santa Rosa Golf & Country Club. This Notice addresses violations of the SDWA, such as failure to comply with maximum contaminant levels for arsenic in drinking water.

The SDWA requires that sixty (60) days prior to the initiation of a civil action under SDWA §300j-8(a)(1), 42 U.S.C. §1449(a)(1), a citizen must give notice of the intent to sue to the alleged violator and applicable federal and state authorities. River Watch is sending you this letter to preserve its rights under the SDWA.

River Watch hereby gives notice to Santa Rosa Golf & Country Club (“the Club,”) that following the expiration of sixty (60) days from the date of receipt of this Notice, River Watch will be entitled to bring suit in the United States District Court against the Club for violations of requirements prescribed by or under the SDWA including, but not limited to: non-compliance with maximum contaminant levels (“MCLs”) issued under SDWA §300g-1,

42 U.S.C. §1412 and the Code of Federal Regulations, as exemplified by the incidents of non-compliance identified and outlined in this Notice, with respect to the Club's community water system.

The SDWA requires that any Notice regarding an alleged violation of any requirement prescribed by or under the Act shall include sufficient information to permit the recipient to identify the following:

1. *The specific requirement alleged to have been violated.*

In addition to the narratives below, River Watch identifies documents obtained from the California Department of Public Health's Division of Drinking Water and Environmental Management, identifying repeated non-compliance with SDWA MCLs at source well No. 03 in violation of the SDWA's regulation of the maximum permissible level of contaminants in water delivered to any user of a public water system, in violation of SDWA §300fg-1, 42 U.S.C. §1412.

2. *The activity alleged to constitute a violation.*

The Club's water system, supplied by groundwater, serves a population of approximately 100 employees and 200 visitors per day. The Club's water supply is regulated under a Domestic Water Supply Permit issued by the California Department of Public Health. River Watch has set forth narratives below describing "positive" detections above the MCL for arsenic, all occurring during specific reporting periods between 2009 and 2014.

The violations are described in this Notice with particularity, and are based on data detailed in public reports and other documents in the Club's possession or otherwise available to the Club. River Watch incorporates by reference the records cited below from which descriptions of specific incidents were obtained.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violation is Santa Rosa Golf & Country Club, and its owners, operators and employees responsible for compliance with the SDWA and compliance with any applicable state and federal regulations and permits.

4. *The location of the alleged violation.*

The location of the various violations is Santa Rosa Golf & Country Club, located at 333 Country Club Drive, in Santa Rosa, California.



5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined records on file with the California Department of Public Health and the Club. The range of dates covered by this Notice is from April 28, 2009 to April 28, 2014. River Watch will from time to time update this Notice to include violations which occur after the range of dates covered. Specific violations occurring on specific dates are listed herein. Some of the violations are continuous in nature, therefore, each day constitutes a separate violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving notice is California River Watch, 290 S. Main Street, #817, Sebastopol, CA 95472, referred to throughout this Notice as "River Watch." River Watch is a 501(c)(3) nonprofit, public benefit corporation organized under the laws of the State of California, dedicated to protect, enhance and help restore the groundwater and surface water environs of California including, but not limited to, its rivers, creeks, streams, wetlands, vernal pools, and tributaries. River Watch may be contacted via email: [US@ncriverwatch.org](mailto:US@ncriverwatch.org) or through its attorneys.

River Watch has retained legal counsel with respect to the violations set forth in this Notice. All communications should be addressed to:

David Weinsoff, Esq.  
Law Office of David Weinsoff  
138 Ridgeway Avenue  
Fairfax, CA 94930  
Tel. 415-460-9760  
Fax. 707-528-8675

## **STATUTORY BACKGROUND**

SDWA, 42 U.S.C. §§300f to 300j-26, was enacted in 1974 to "assure that water supply systems serving the public meet minimum national standards for protection of public health." Safe Drinking Water Act, Legislative History, H.R. Rep. No. 93-1185 (1974), reprinted at 1974 U.S.C.C.A.N. 6454. The Act authorizes the EPA to "establish federal standards applicable to public water supplies from harmful contaminants, and establish a joint federal-state system for assuring compliance with these standards and for protecting underground sources of drinking water." *Id.* at 6454-55.

Section 1412(b)(1)(A) of the SDWA requires the EPA to identify contaminants in public water supply systems that may have an adverse human health effect and for which regulation would present a "meaningful opportunity" for reduction of that health risk. 42 U.S.C. §300g-1(b)(1)(A). For each of the contaminants identified under Section 1412(b)(1), Section 1412(b)(1)(E) requires the EPA to establish maximum contaminant level goals ("MCLGs") as well as MCLs. 42 U.S.C. §300g-1(b)(1)(E). A violation of the SDWA occurs when testing/monitoring indicates that the level of a contaminant in treated water exceeds the MCL.

Private parties may bring citizens' suits pursuant to 42 U.S.C. §300j-8 to enforce violations of MCLs. River Watch contends that the Club is, among its other activities, a supplier of drinking water regulated under the SDWA and, as detailed in the most recent monitoring reports provided by the California Department of Public Health, violating the MCL for arsenic.

## **VIOLATIONS**

River Watch contends that between April 28, 2009 and April 28, 2014, the Club violated the SDWA and the Code of Federal Regulations by failing to ensure that the drinking water supplied to its customers met and continues to meet the standards required by law including, but not limited to: exceeding the MCL for arsenic.

The violations listed below are derived from records publically available, or records in the possession and control of the Club. Monitoring dates and reported exceedances were taken from records on file with the California Department of Public Health.

### **WELL NO. 03, SANTA ROSA GOLF & COUNTRY CLUB WATER SYSTEM**

#### **MCL - Arsenic 0.010 mg/L**

#### **Monitoring Dates and Reported Exceedances**

July 31, 2012 - 0.030 mg/L  
October 9, 2012 - 0.089 mg/L  
January 3, 2013 - 0.019 mg/L  
March 19, 2013 - 0.049 mg/L  
April 12, 2013 - 0.065 mg/L



Running Annual Average - Quarter out of Compliance

2<sup>nd</sup> Qtr 2013 - 0.0545 mg/L

## CONCLUSION

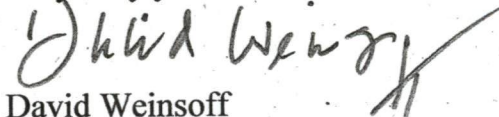
It is presumed that the water supplier is in continual violation of the applicable standard until constituent measurements are below that applicable standard. Therefore, each day after an exceedance and until the supplier is in compliance is considered a separate violation of the SDWA and the court can grant relief in the form of requiring that the drinking water be brought to meet drinking water standards, awarding of attorney fees, and in some cases, penalties.

The importance of quality drinking water cannot be overstated. MCLs are established with the biology of healthy young adults in mind. The same standards are set for everyone, including children, pregnant women, the elderly and infirm. River Watch is understandably concerned about the health effects of water systems which continue to provide contaminants above MCLs. Arsenic in drinking water has been linked to adverse health effects, including circulatory problems and increased risk of cancer. It is the Club's responsibility to conform to the standards set forth in the Act.

River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter, River Watch has cause to file a citizen's suit under SDWA §1449 against the Club for the violations identified and described in this Notice.

During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations identified in this Notice. However, if the Club wishes to pursue such discussions in the absence of litigation, it is suggested those discussions be initiated soon so that they may be completed before the end of the 60-day notice period. River Watch does not intend to delay the filing of a lawsuit if discussions are continuing when the notice period ends.

Very truly yours,



David Weinsoff

DW:lhbm

cc: Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N. W.  
Washington, D.C. 20460

Regional Administrator  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Director/State Public Health Officer  
California Department of Public Health  
1616 Capitol Avenue, MailStop 7408  
Sacramento, CA 95899

Kamala D. Harris - Attorney General  
State of California Department of Justice  
Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814